

## Message Text

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ORIGIN AF-10

INFO OCT-01 ISO-00 PM-05 L-03 CIAE-00 INR-07 NSAE-00  
DODE-00 MCE-00 ACDA-07 EB-08 COME-00 OMB-01  
TRSE-00 /042 R

DRAFTED BY AF/E:JWHITING:AB  
APPROVED BY AF:TSEELYE  
PM:DHESTER

-----017795 131301Z /53

R 122013Z AUG 77  
FM SECSTATE WASHDC  
TO AMEMBASSY MOGADISCIO

C O N F I D E N T I A L STATE 191448

E.O. 11652: GDS

TAGS: MASS, SO, US

SUBJECT: REQUIREMENTS ON ARMS TRANSFERS

1. DURING AUGUST 10 CONVERSATION BETWEEN ACTING ASSISTANT SECRETARY SEELYE, AMBASSADOR ADDOU AND VISITING SOMALI MILITARY DELEGATION FOLLOWING STATEMENT PASSED TO THEM.

2. QUOTE: LEGAL AND ADMINISTRATIVE REQUIREMENTS AFFECTING TRANSFERS OF DEFENSE ARTICLES AND SERVICES UNDER THE ARMS EXPORT CONTROL ACT (THE ACT)

GOVERNMENT TO GOVERNMENT SALES

PRESIDENTIAL DETERMINATION. SOMALIA IS NOT CURRENTLY ELIGIBLE TO PROCURE DEFENSE ARTICLES AND SERVICES UNDER FOREIGN MILITARY SALES (FMS) PROCEDURES. IN ORDER FOR SOMALIA TO BECOME ELIGIBLE, THE PRESIDENT MUST MAKE A FINDING UNDER SECTION 3(A)(1) OF THE ACT THAT THE SALE OF  
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DEFENSE ARTICLES AND SERVICES TO SOMALIA WILL STRENGTHEN THE SECURITY OF THE UNITED STATES AND PROMOTE WORLD PEACE. SUCH DETERMINATIONS ARE PUBLISHED IN THE FEDERAL REGISTER AND REPORTED TO CONGRESS. ONCE FMS ELIGIBILITY IS ESTABLISHED, OUR PRACTICE IS TO REVIEW REQUESTS ON A CASE-BY-CASE BASIS TO DETERMINE CONSISTENCY WITH OUR POLICY.

PREPARATION OF LETTER OF OFFER. UPON RECEIPT OF A SALES REQUEST FROM AN FMS ELIGIBLE COUNTRY, THE DEPARTMENT OF STATE CONSULTS WITH RELEVANT BUREAUS AND AGENCIES (INCLUDING THE OFFICE OF HUMAN RIGHTS AND HUMANITARIAN AFFAIRS, ARMS CONTROL AND DISARMAMENT AGENCY, AND THE DEPARTMENT OF DEFENSE) TO DETERMINE WHETHER THE REQUEST SHOULD BE GRANTED. IF THE REQUEST IS APPROVED, THE DEPARTMENT OF DEFENSE IS AUTHORIZED TO PREPARE A SALES CONTRACT OR LETTER OF OFFER AND ACCEPTANCE (LOA). IT NORMALLY REQUIRES 90 DAYS TO PREPARE A LETTER OF OFFER.

NOTIFICATION TO CONGRESS. UNDER SECTION 36(B) OF THE ACT, LETTERS OF OFFER TO SELL ANY DEFENSE ARTICLES OR SERVICES VALUED AT DOLS 25 MILLION OR MORE OR ANY MAJOR DEFENSE EQUIPMENT VALUED AT DOLS 7 MILLION OR MORE MUST BE SUBMITTED TO CONGRESS FOR A REVIEW PERIOD BEFORE THE LETTER OF OFFER MAY BE ISSUED. UNDER EXISTING PROCEDURES, THERE IS A 50-DAY REVIEW PERIOD. THE STAFFS OF THE CONGRESSIONAL COMMITTEES RECEIVE A 20-DAY INFORMAL NOTIFICATION. THIS IS THEN FOLLOWED BY THE REQUIRED 30-DAY FORMAL NOTIFICATION. IF IT WISHES, CONGRESS MAY PASS A CONCURRENT RESOLUTION TO BLOCK THE SALE.

#### THIRD COUNTRY TRANSFERS

THE UNITED STATES RETAINS THE RIGHT ON ALL US-ORIGIN  
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DEFENSE ARTICLES AND SERVICES TO APPROVE TRANSFERS BY RECIPIENT COUNTRIES TO THIRD COUNTRIES. REQUESTS FOR THIRD-COUNTRY TRANSFERS ARE PROCESSED BY THE DEPARTMENT OF STATE. BEFORE ANY THIRD-COUNTRY TRANSFER REQUEST FOR THE SALE OF AN FMS-ORIGIN ITEM MAY BE APPROVED, IT MUST BE SUBMITTED TO CONGRESS FOR A 30-DAY REVIEW PERIOD (SECTION 36(D) OF THE ACT). ANY PROPOSED THIRD-COUNTRY TRANSFER TO A COUNTRY WHICH IS NOT FMS ELIGIBLE SUCH AS SOMALIA, WOULD REQUIRE THE SECRETARY OF STATE TO DETERMINE THAT THE US GOVERNMENT WOULD BE WILLING TO TRANSFER THE EQUIPMENT/SERVICES IN QUESTION DIRECTLY TO SOMALIA AND THAT THE PROPOSED TRANSFER WOULD STRENGTHEN THE SECURITY OF THE UNITED STATES AND PROMOTE WORLD PEACE. THERE ARE SLIGHTLY DIFFERENT PROCEDURES FOR A THIRD-COUNTRY TRANSFER INVOLVING US-ORIGIN ITEMS OBTAINED ON A GRANT BASIS UNDER THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED.

#### COMMERCIAL SALES

SALES OF DEFENSE ARTICLES AND SERVICES ON THE US MUNITIONS LIST MAY BE MADE THROUGH COMMERCIAL CHANNELS, PROVIDING A MUNITIONS CONTROL LICENSE HAS BEEN ISSUED BY THE DEPARTMENT

OF STATE'S OFFICE OF MUNITIONS CONTROL. LICENSES MAY NOT

BE ISSUED, HOWEVER, FOR CERTAIN SALES OF MAJOR DEFENSE  
EQUIPMENT VALUED AT DOLS 25 MILLION OR MORE. SUCH  
TRANSFERS MUST BE MADE THROUGH GOVERNMENT-TO-GOVERNMENT  
CHANNELS (SECTION 38(A)(3) OF THE ACT). FURTHERMORE, A  
LICENSE MAY NOT BE ISSUED FOR THE EXPORT OF ANY MAJOR  
DEFENSE EQUIPMENT VALUED AT DOLS 7 MILLION OR MORE OR FOR  
ANY DEFENSE ARTICLES AND SERVICES VALUED AT DOLS 25 MILLION  
OR MORE UNLESS CONGRESS HAS BEEN NOTIFIED AND GIVEN 30 DAYS  
TO REVIEW THE PROSPECTIVE LICENSE (SECTION 36(C) OF THE  
ACT). ALL REQUESTS FOR COMMERCIAL EXPORT LICENSES ARE  
REVIEWED BY INTERESTED BUREAUS AND AGENCIES IN A MANNER  
SIMILAR TO FMS CASES. UNQUOTE. CHRISTOPHER  
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## Message Attributes

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**Review Markings:**  
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